

**A BILL FOR AN ORDINANCE TO AMMEND CHAPTER 21 OF THE  
KAUA'I COUNTY CODE, RELATING TO INTEGRATED SOLID  
WASTE MANAGEMENT, ADDING A NEW SECTION TO  
ESTABLISH A CONSTRUCTION AND DEMOLITION DIVERSION  
PROGRAM**

***DRAFT Updated January 27, 2015***

**WHEREAS**, debris generated in construction and demolition projects accounts for a significant portion of the materials disposed of in landfills; and

**WHEREAS**, a large percentage of such debris is composed of recyclable materials; and

**WHEREAS**, existing processing capacity and material markets currently exist for a significant quantity of the C&D debris presently disposed of at the Kekaha Landfill; and

**WHEREAS**, the County of Kauai desires to implement a program to encourage the diversion of specific *Designated C&D Recyclables* from landfill disposal;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI:**

Chapter 21 of the County Code is amended by adding a part to be numbered and entitled and to read as follows:

**Part XX**

**CONSTRUCTION AND DEMOLITION DIVERSION**

**Section 1 PURPOSE.** It is the purpose of the Kaua'i County Construction and Demolition Diversion Ordinance encourage and facilitate the maximum practicable diversion of all waste generated by construction and demolition projects in Kaua'i County.

A. The Kaua'i County Construction and Demolition Diversion Ordinance shall establish, implement and enforce minimum recycling requirements, practices and procedures to be applicable to all Demolition Projects and Construction Projects exceeding \$100,000 in valuation within the County by:

- 1) Requiring Contractors and/or Owner Builders to keep all *Designated C&D Recyclables* separate from all other solid waste for recycling, and provide for the collection of those recyclable materials.

- 2) Requiring Contractors and/or Owner Builders to inform their employees, and subcontractors of the requirements of this ordinance.
- B. If any portion of this ordinance is for any reason held invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining parts.

## **Section 2 APPLICABILITY.**

- A. This ordinance shall be applicable only on the Island of Kaua'i.
- B. This chapter shall apply to all demolition projects, and any construction or renovation project valued over \$100,000.
- C. The requirements of this ordinance shall only apply to those *Designated C&D Recyclables* as defined in Section 3 – D and detailed in Attachment A.

## **Section 3 DEFINITIONS.**

For the purposes of this chapter, certain terms used herein are defined as set forth below:

- A. Alteration: For the purposes of the recycling and diversion requirements in this chapter, any change, addition, or modification in construction or occupancy of an existing structure.
- B. Applicant: Any individual, firm, limited liability corporation, association, partnership, political subdivision, government agency, industry, public or private corporation, property owner, contractor, architect or any other entity whatsoever who applies to the County for the applicable permits to undertake any construction, demolition, or renovation project within the County.
- C. Building: For the purposes of this chapter, any residential, commercial, industrial, or institutional structure, but does not include fences, gates or other minor appurtenances located on a premise.
- D. Contractor: Any person or entity holding, or required to hold, a contractor's license of any type under the laws of the State of Hawaii, or who performs (whether as contractor, subcontractor or owner-builder) any construction, demolition, remodeling, renovation, or landscaping service relating to Buildings or accessory Structures in the County of Kauai.
- E. Construction and Demolition (C&D) Debris:
  - a. Any used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.
  - b. Discarded materials generally considered to be non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard

- and lumber from the demolition, construction or renovation of a structure or hardscape.
- c. Vegetative material including trees, tree remains, brush, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project;
- d. Clean cardboard, paper, plastic, wood and metal scraps from any construction and/or landscape project; and
- e. Minimal amounts of other non-hazardous wastes that are generated at the construction or demolition projects provided such amounts are consistent with best management practices of the industry.
- F. Construction & Demolition Diversion Plan (C&D Diversion Plan): A project specific strategy whose goal is minimizing the amount of waste generated during both Demolition and Construction. The *owner / contractor* may utilize the C&D Diversion Report form, provided by the County, to develop their own pre-construction strategy.
- G. Construction & Demolition Diversion Report (C&D Diversion Report): A completed form, provided by the County, and submitted by the owner/applicant verifying compliance with the Diversion Ordinance
- H. Conversion Rate: Standardized volume to weight assumptions for use in estimating the volume or weight of materials diverted.
- I. Covered Project: All demolition projects and all projects involving the construction remodeling or alteration of any building where the value of such work meets or exceeds \$100,000. [this includes the building, as well as property features such as paving and ancillary improvements]. Notwithstanding the above, the County Engineer may waive the requirements of this ordinance in total or in part when necessary to protect the public safety.
- J. Deconstruction: The soft demolition of any facility, Structure, Hardscape improvement or building through a planned dismantling and salvaging of reusable materials and parts.
- K. Demolition: For the purposes of the recycling and diversion requirements in this chapter, the intentional removal or partial removal of an existing Building or Hardscape.
- L. Designated C&D Recyclable and Reusable Materials or *Designated C&D Recyclables*: Those materials in the Construction and Demolition waste stream which the County Engineer or designee has determined can be recycled or reused due to the identification of a recycling facility, reuse facility, or market accessible to local contractors.
- M. Diversion: Any activity which causes materials to be diverted from disposal in landfills or incinerators and instead put to use as the same or different product by any of the following methods:

- a. On-site reuse of the waste.
  - b. Deconstruction or Salvage.
  - c. Delivery of the waste from the site to a Permitted Recycling Facility as defined by the Department of Health, State of Hawai'i.
  - d. Other methods as approved by the County Engineer.
- N. Diversion Requirement: The diversion of 90% of the Designated C&D Recyclables generated by a project through reuse or recycling.
- O. Hardscape Improvements or Hardscape: Concrete, asphalt or brick paving such as driveways, parking lots, walkways, patios and decks, and swimming pools.
- P. "Non-Recyclable/Non-Reusable Materials means that portion of C&D Debris for which there is no available reuse, recycling or processing option on the Island of Kaua'i for the return of these materials to the economic mainstream in the form of raw material for new, reused, or reconstituted products that meet the quality standards necessary to be used in the marketplace.
- Q. Permitted Recycling Facility: A recycling, composting, materials recovery or reuse facility which has a valid permit to operate issued by the State Department of Health.
- R. Recycling: The process of collecting, sorting, cleansing, treating, and reconstituting discarded materials that meet the quality standards necessary to be reused, remanufactured or processed.
- S. Renovation: Any change, addition, or modification in an existing structure.
- T. Reuse: The use in the same or similar form as it was produced, of a material that might otherwise be discarded.
- U. Salvage: The controlled removal of reusable materials from C&D Debris, for the purpose of recycling, reuse, or storage for later recycling or reuse.
- V. Salvageable Materials: Materials that can be recovered for reuse.
- W. Solid Waste Permit: Formal written approval from the Solid and Hazardous Waste Branch of the Department of Health to receive and manage solid waste and / or recyclables.

**Section 4 DESIGNATION OF RECYCLABLES:** The County Engineer or his/her designee, shall have the authority to designate or amend, by rule, recyclable materials that shall be diverted from disposal by all Covered Projects. Such a designation shall consider types of materials generated by various construction projects, available processing capacity, and market conditions.

- A. The County Engineer shall have the authority to amend (add or delete) materials from the list as processing capabilities and market conditions change.
- B. In addition, all Covered Projects are encouraged to consider recycling additional materials, whether or not they have been designated as

recyclable materials and are also encouraged to practice source reduction and reuse activities prior to recycling.

**Section 5 C&D PROJECT DIVERSION REQUIREMENTS:**

- A. All Covered Projects shall make Salvageable Materials available for reuse prior to demolition or disposal.
- B. Each project shall estimate the quantities of all Designated C&D Recyclables, and upon completion of the project submit a report summarizing the results of the diversion effort.
- C. All Covered Projects shall have in place programs to divert at least 90% of all Designated Materials by reuse, recycling, salvage, composting.
- D. Designated material contaminated with toxic or hazardous materials prior to demolition shall be managed according to Chpts 342-H & 342-J HRS. Should the material be able to be processed on-site to remove the hazardous contamination, it should then be recycled.
- E. The owner / contractor shall retain any documentation in the form of invoices, receipts, signed vouchers or statements, and/or photo-documentation for County review.
- F. Inert materials, such as soil & rock, are required to be reused or recycled at the rate of 100%
- G. Owner/Contractor shall submit a final report to the Solid Waste Division as described in the Reporting Section.

**Section 6 DECONSTRUCTION, SALVAGE, AND REUSE:** Recovered or salvaged materials may be given or sold on or from the premises at which they were recovered or salvaged, or may be removed and stored for future reuse or transported to reuse warehouse facilities for storage or sale.

- A. Deconstruction and Salvage is encouraged though not mandated,
- B. It is recommended that the owner, the general contractor and all subcontractors recover the maximum feasible amount of salvageable materials prior to demolition.
- C. Diversion of materials through deconstruction, salvage, or reuse may be documented through signed statements and or photo documentation generated by the owner / applicant.

**Section 7 CONSTRUCTION AND DEMOLITION DIVERSION REPORT**

- A. Except as otherwise specified in this Part, on or after XX, all Covered Projects as defined in Chapter XX of this Code shall submit a *Construction and Demolition Debris Diversion Report* in a format provided by the Department.
- B. Within thirty (30) days following the completion of work, the contractor shall submit the Report to the Public Works Department

that complies with the requirements of this Chapter (form provided by County)

- C. Owners / Contractors who choose to self-haul their recyclables shall include the name of the recycling facility (ies) to which the materials were taken on the annual report.
- D. The C&D Diversion Report shall also include a summary of all Salvage and Reuse activities if appropriate.

**Section 8 EXEMPTIONS.** A Construction and Demolition Debris Diversion Report shall not be required for the following:

- A. Construction or alteration projects of less than \$100,000 in value.
- B. Roofing projects that do not include the tear-off of the existing roof.
- C. Work for which only a plumbing permit, an electrical or mechanical permit is required.
- D. Projects where lack of space, or adequate access would result in violation of law (this demonstration shall be verified through site visit by Department staff)
- E. Projects where the amount of any single Designated C&D Recyclables comprises less than 5% of the municipal solid waste the contractor shall be exempt from diverting that material.

**Section 9 ENFORCEMENT:**

- A. The Department shall have the authority to conduct site inspections and review relevant data and reports at any time during the project.
- B. Failure to comply with the diversion requirements of this ordinance shall be considered a misdemeanor and liable for penalties of up to \$5,000. The initial violation will result in a warning, for the second violation a fine of \$500 may be assessed, for additional violations the amount of the fine shall be increased by \$500 for each incidence.
- C. Failure to submit a final report, or submittal of inaccurate information shall be considered a misdemeanor and liable for penalties of up to \$5,000. The initial violation will result in a warning, for the second violation a fine of \$500 may be assessed, for additional violations the amount of the fine shall be increased by \$500 for each incidence.
- D. The County Engineer shall have the authority to deny building permits to individuals, contractors and developers who continue to fail to comply (4 or more violations) with the requirements of this ordinance.

## **Attachment A**

### **DESIGNATED CONSTRUCTION-DEMOLITION RECYCLABLE AND REUSABLE MATERIAL (C&D RECYCLABLES)**

***[Example – To Be Established by Rule]***

- A. Vegetative materials including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use;
- B. Corrugated Cardboard
- C. Metals, both ferrous and non-ferrous, including all metal scrap such as, but not limited to: framing and structures, pipes, siding, window frames, doorframes and fences.
- D. Concrete, asphalt, and masonry building and paving materials including all products generally used in construction.

In addition it is recommended that all Covered Projects develop a strategy to maximize the diversion of salvageable materials and structures, including, but not limited to:

- Doors, windows, cabinets, lighting fixtures, toilets, sinks, bathtubs and appliances;
- Decorative molding, flooring, carpeting and reusable hardware;
- Bricks and decorative tiles in good repair;
- Dimensional lumber of such length and condition as to facilitate reuse